



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 373.08.171

CONVERSION DATE: July 1, 1998

RETAIL SALES TAX: LOGGING PERFORMED AS AN INCIDENT TO CONSTRUCTION OF PRIVATELY OWNED ROADS

Issued June 12, 1970

Is the retail sales tax to be collected upon the gross amount received for logging which is performed as an incident to the construction of private roads?

A portion of the taxpayer's work consisted of felling, bucking and decking logs on the right-of-way of roads to be built. The taxpayer urges that Rule 135 should control since this rule is more specific than 170 and 172 which are general rules dealing with construction. Under Rule 135, logging operations are to be accounted for as extracting. The taxpayer also points out that the logging portion of the contract is separately priced. Furthermore, he contends that felling, bucking, and yarding of timber should not be deemed land clearing, but that land clearing in this type of an operation should be deemed to consist of the removal of stumps and brush after the logging activity has been completed.

The department held that the contracts under which the work was performed are essentially different and separate contracts from the standard logging contracts used by the taxpayer's employer. It follows that the taxpayer's activities of felling, bucking, and decking logs on the roads to be constructed are merely incidental to what are primarily road construction contracts. Therefore, the gross income received under such contracts for privately owned roads is subject to the retail sales tax. Under RCW 82.04.050 the charges made for constructing real or personal property of or for consumers are a "retail sale."

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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